

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

CYRANO, INC.,

Plaintiff,

v.

QUOTIUM TECHNOLOGIES, INC.,

QUOTIUM TECHNOLOGIES, S.A.,

and

TECHNOLOGIES, S.A.,

Defendants.

CIVIL ACTION NO. 05-CV-11558-DPW

QUOTIUM’S MOTION TO DISMISS OR STAY

Pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, Defendants Quotium Technologies, Inc., Quotium Technologies, S.A., and Technologies, S.A. (collectively, “Quotium”) hereby respectfully move the Court to dismiss the Complaint or, in the alternative, to stay the present action commenced by Plaintiff Cyrano, Inc. (“CI”). As grounds for this motion, Quotium states as follows:

1. At least seven of CI’s nine counts (Counts I-IV and VI-VIII) have already been dismissed with prejudice by Judge Tauro in a still pending related action (the “Quotium Action”) and should therefore be barred here.
2. At least the same seven counts should also be dismissed because CI is engaged in improper claim-splitting.
3. Counts V and IX should be dismissed because they
 - a. are frivolous;
 - b. were rejected by Judge Tauro in the Quotium Action; and/or
 - c. were found unpersuasive by the First Circuit when acting on CI’s motion for a stay pending appeal; and

4. In the alternative, this case should be stayed because the Quotium Action is on interlocutory appeal to the First Circuit, and some or all of the present action may be mooted by the resulting decision.

5. In further support of this motion, Quotium files contemporaneously herewith its memorandum of law.

WHEREFORE, Quotium respectfully requests that the Court grant the relief requested herein and dismiss the Complaint or, in the alternative, stay this action pending resolution of the Quotium Action.

DATED: September 23, 2005

Respectfully submitted,

/s/ Mayeti Gametchu
Kevin J. O'Connor (BBO# 555250)
Mayeti Gametchu (BBO# 647787)
John Pagliaro (BBO# 634483)
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Counsel For Defendants

TECHNOLOGIES, S.A.,
QUOTIUM TECHNOLOGIES, S.A., and
QUOTIUM TECHNOLOGIES, INC.

Local Rule 7.1 Certificate Of Compliance

I, Mayeti Gametchu, hereby certify that on September 23 2005, I conferred by telephone with Michael Sugrue, counsel of record for Plaintiff Cyrano, Inc., in a good faith attempt to resolve or narrow the issues, but was unable to do so.

/s/ Mayeti Gametchu

Certificate of Service

I, Mayeti Gametchu, hereby certify that on September 23, 2005, I served a copy of the foregoing motion by overnight mail to be delivered next business day, post pre-paid, on counsel of record for Cyrano, Inc., Stephen Y. Chow and Michael Sugrue, Perkins, Smith & Cohen, 1 Beacon St., 30th Floor, Boston, MA 02108-3106.

/s/ Mayeti Gametchu

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